

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:98-CR-00037-F-20
No. 5:15-CV-00403-F

EARL EDWARD WEBB,)
Petitioner,)
v.) ORDER
UNITED STATES OF AMERICA,)
Respondent.)

This matter is before the court on Earl Edward Webb's pending Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 [DE-912].

A review of the record reveals that Webb previously filed a § 2255 motion that was resolved on the merits. *See* [DE-578]. Pursuant to 28 U.S.C. § 2244(b)(3)(A), “[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.” In this case, Webb must first obtain an order from the Fourth Circuit Court of Appeals before this court will consider any successive petition under 28 U.S.C. § 2255.

In light of the foregoing, Webb's pending Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 [DE-912] is DISMISSED without prejudice to him to seek pre-filing authorization from the Fourth Circuit Court of Appeals. The court concludes that Webb has not made the requisite showing to support a certificate of appealability. Therefore, a certificate of appealability is DENIED.

SO ORDERED.

This the 19 day of August, 2015.

James C. Fox
James C. Fox
Senior United States District Judge